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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,377	06/27/2008	Roland Almeras	713-1233	1059

22429 7590 06/22/2010  
LOWE HAUPTMAN HAM & BERNER, LLP  
1700 DIAGONAL ROAD  
SUITE 300  
ALEXANDRIA, VA 22314

EXAMINER
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CHUKWURAH, NATHANIEL C

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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06/22/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,377	<b>Applicant(s)</b> ALMERAS ET AL.	
	<b>Examiner</b> NATHANIEL C. CHUKWURAH	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/21/06; 6/24/10 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. This office action is in response to the argument/remarks filed on 3/24/2010.

#### ***35 U.S. C. 112, sixth paragraph.***

2. Applicant is not invoking *112, sixth paragraph* in the recitation "by means of a truncated portion to the remainder of the bore of the plug guide"

#### ***Claim Rejections - 35 USC § 102***

3. The rejection under 102(b) as being anticipated by Wywialowski is withdrawn.

The rejection would have been under 102(e), however applicant has perfected the priority by submitting proper document. A new rejection is as follows:

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamada et al. (US 2002/0027150) in view of Gantner et al. (US 6,237,747).

With regard to claim 6, Hamada discloses indirect fire device as shown in Figure 2 for fixing fasteners in a substrate material, comprising a piston (8) for driving a fastener (50) movably mounted in a barrel (4) and a plug guide (5) for guiding a fastener towards the substrate material, the device being adapted to receive a magazine (3) for receiving a strip of fasteners (50) in order to introduce the fasteners one by one into the plug guide (5), wherein the plug guide (5)

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includes a zone (C) having an enlarged section as shown in Figure 1 at the opening of the magazine (3) leading into the plug guide (5).

Hamada fails to show each fastener being held in a sleeve comprising shearable means for connection to another sleeve. Gantner teaches that it is old and well known in the art to provide fastener (6) in a shearable sleeve (14) for the purpose of supporting the fastener. Thus, it would have been obvious to one skilled in the art to modify Hamada's fastener by providing the fastener in a shearable sleeve for the purpose as set forth above.

With regard to claim 7, the modified invention of Hamada shows the zone having an enlarged section has a circular section (see Figs. 1 and 17).

With regard to claim 8, the modified invention of Hamada shows the sleeves (Gantner) are connected together by means of bridges (see Gantner Fig. 1), the zone having an enlarged section has a diameter substantially equal to the diameter of the plug guide (5) and would be increased by the radial dimensions of a bridge.

With regard to claim 9, the modified invention of Hamada shows the zone having an enlarged section (C) extends axially over the length of a sleeve and considered increased by the stroke of the plug guide for loading the device.

With regard to claim 10, the modified invention of Hamada shows the zone (C) having an enlarged section is connected by means of a truncated portion (20) to the remainder of the bore of the plug guide.

### ***Response to Arguments***

6. Applicant's remarks have been fully considered but they are deemed moot in view of the new grounds of rejection.

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***Conclusion***

7. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHANIEL C. CHUKWURAH whose telephone number is (571)272-4457. The examiner can normally be reached on M-F 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathaniel C. Chukwurah/  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721

6/17/2010

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